

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference S/2BE26/MV/173	FOR FURTHER ACTION See Form PCT/PEA/416	
International application No. PCT/EP2004/007840	International filing date (<i>day/month/year</i>) 13.07.2004	Priority date (<i>day/month/year</i>) 29.07.2003
International Patent Classification (IPC) or national classification and IPC B65D21/02, B65D1/34		
Applicant IMPRESS GROUP B.V. et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 2 sheets, as follows:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 		
Date of submission of the demand 25.05.2005	Date of completion of this report 09.11.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Fournier, J Telephone No. +31 70 340-1031	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/007840

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-7 as amended (together with any statement) under Art. 19 PCT

Drawings, Sheets

1/3-3/3 as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos. 8
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos. 3
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/007840

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	3
	No:	Claims	1-2, 4-7
Inventive step (IS)	Yes:	Claims	3
	No:	Claims	1-2, 4-7
Industrial applicability (IA)	Yes:	Claims	1-7
	No:	Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/EP2004/007840

Re Item I

Basis of the report

The amended claim 3 goes beyond the disclosure as filed, because it can include the combination of the technical features of claim 2 and claim 3. In the original application, a ring as defined in claim 3 is not combined with bulges that protrude beyond the peripheral wall as it is claimed in claim 2, see figures 4 and 5.

Therefore, claim 3 has been examined as if it was only dependent on claim 1.

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.
PCT/EP2004/007840

Re Item V.

- 1 The following document is referred to in this communication:
D1 : WO 01/30655 A (GARWOOD ANTHONY J) 3 May 2001 (2001-05-03)
- 2 INDEPENDENT CLAIM 1
- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Figure 63 of Document D1 depicts four containers in a stacked position. Each container comprises a bottom, a peripheral wall integral with the bottom and extending upwardly from the bottom defining a mouth opening, see figure 61. The bottom is not the part of the container in contact with the food, but the element below it. Thus, the peripheral wall (the part located on the periphery of the container) and the bottom are integral. Each container further comprises a closing foil arranged onto the mouth opening. Each container also comprises at least one support element arranged on the bottom at a position corresponding to the edge of the mouth opening, such that the support element of a first container rests on the edge of the mouth opening of a second container, see page 69, lines 19-25. Four supports elements in the form of a bulge, see again figure 61, are formed in the bottom and in the side wall. The bulge, the part resting on the edge of the mouth opening protrudes beyond in the bottom plane, see the protruding part visible in figure 61.

As all the technical features of claim 1 are known from document D1, the subject matter of this claim is not new in the sense of Article 33(2) PCT.

- 3 DEPENDENT CLAIMS 2, 4-7
The technical features of claims 2, 4-7 are also known from document D1, see figure 63 and page 69, lines 19-25.
- 4 The combination of the features of dependent claim 3 is neither known from, nor rendered obvious by, the available prior art.

IAP9 Recd PCT/PTO 26 JAN 2006

- 1 International application PCT/EP2004/007840
enclosure to letter dated 25-05-2005

S/2BE26/SB/173.PCT

EPO - DG 1**25 05 2005****NEW SET OF CLAIMS**

(77)

1. Container for containing foodstuff, which container comprises:
 - a bottom;
 - a peripheral wall integral with the bottom and extending upwardly from the bottom and defining a mouth opening;
 - a closing foil arranged onto the mouth opening;
 - at least one support element arranged on the bottom at a position corresponding to the edge of the mouth opening,
- 5 such that in a stacked position of at least two identical containers, the support element of the first container rests on the edge of the mouth opening of the second container wherein at least three support elements in the form of a bulge are formed in the bottom and side wall and protrude beyond the bottom plane.
- 10 2. Container according to claim 1 wherein the bulges protrude beyond the peripheral wall.
- 15 3. Container according to claim 1 or 2, wherein a ring is arranged on the mouth opening, wherein the closing foil is arranged on the ring and in a stacked position of two identical containers, the support elements of the first container rests on the ring of the second container.
- 20 4. Container according to any of the preceding claims, comprising the at least three support elements evenly distributed over the bottom.
- 25 5. Container according to any of the claims 1-4, wherein the support element comprises a protruding rim.

6. Container according to any of the preceding claims, wherein the support element is arranged inside the produced part of the peripheral wall.

7. Container according to any of the preceding 5 claims, wherein the bottom and the peripheral wall integral with the bottom are connected via a rounded off corner portion.

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